

Surface Transportation Board, DOT

§ 1155.20

required to apply for a land-use-exemption permit).

(g) Name, title, and address of representative of petitioner to whom correspondence should be sent.

§ 1155.11 Filing and service of petition.

(a) When the petition is filed with the Board, the petitioner shall serve concurrently, by first class mail, a copy of the petition on the rail carrier that owns or operates the solid waste rail transfer facility and on the facility if the address is different than the rail carrier's address. A copy of the certificate of service shall be filed with the Board at the same time.

(b) Upon the filing of a petition, the Board will review the petition and determine whether it conforms to all applicable regulations. If the petition is substantially incomplete or its filing otherwise defective, the Board will reject the petition without prejudice for stated reasons by order within 15 days from the date of filing of the petition.

(c) If the petition is rejected, a revised petition may be resubmitted, and the Board will determine whether the resubmitted application conforms with all prescribed regulations.

§ 1155.12 Participation in petition proceedings.

(a) An interested person may file a reply to the petition challenging any of the information contained in the petition that is required by 49 CFR 1155.10(c) through (e) and may offer evidence to support its contention. The petitioner will have an opportunity to file a rebuttal.

(b) A facility can acknowledge that it was a solid waste rail transfer facility on October 16, 2008, but no longer operates as such and therefore is not required to seek a land-use-exemption permit. To do so, a facility must file with the Board a certification stating that it:

(1) No longer operates as a solid waste transfer facility;

(2) Understands that by certifying that it no longer operates as a solid waste transfer facility, it no longer qualifies as a facility in existence on October 16, 2008 for purposes of the Clean Railroad Act and these regulations; and

(3) Understands that if it seeks a land-use-exemption permit in the future, it would be required to do so as a proposed facility.

(c) Filing and service of replies.

(1) Any reply shall be filed with the Board (the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board, 395 E Street, SW., Washington, DC 20423) within 20 days of the filing with the Board of the petition.

(2) A copy of the reply shall be served on petitioner or its representative at the time of filing with the Board. Each filing shall contain a certificate of service.

(3) Any rebuttal to a reply shall be filed and served by petitioner no later than 30 days after the filing of the petition.

§ 1155.13 Board determination with respect to a Governor's petition.

The Board shall accept the Governor's complete petition on a finding that the facility qualified as a solid waste rail transfer facility, as defined in 49 U.S.C. 10908(e)(1)(H) and 49 CFR 1155.2, on October 16, 2008. If the Board finds that the facility currently does not qualify for or require a land-use-exemption permit, any future use of the facility as a solid waste rail transfer facility would require an application for a land-use-exemption permit as a proposed facility and/or the proper State permits. In a decision granting the Governor's petition, the Board shall require that the rail carrier that owns or operates the facility, or the operator of the facility, file a land-use-exemption-permit application within 120 days of the service date of the decision.

Subpart C—Procedures Governing Applications for a Land-Use-Exemption Permit

§ 1155.20 Notice of intent to apply for a land-use-exemption permit.

(a) *Filing and publication requirements.* An applicant (*i.e.*, a solid waste rail transfer facility, or the rail carrier that owns or operates the facility) shall give its Notice of Intent to file a land-use-exemption-permit application